

## Occupational Safety and Health Admin., Labor

## § 1910.2

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SOURCE: 39 FR 23502, June 27, 1974, unless  
otherwise noted.

### Subpart A—General

AUTHORITY: Secs. 4, 6, 8, Occupational Safe-  
ty and Health Act of 1970 (29 U.S.C. 653, 655,  
657); Secretary of Labor's Order Numbers 12-  
71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR  
35736), 1-90 (55 FR 9033), or 6-96 (62 FR 111), as  
applicable.

Sections 1910.7 and 1910.8 also issued under  
29 CFR Part 1911. Section 1910.7(f) also issued  
under 31 U.S.C. 9701, 29 U.S.C. 9a, 5 U.S.C. 553;  
Pub. L. 106-113 (113 Stat. 1501A-222); and OMB  
Circular A-25 (dated July 8, 1993) (58 FR  
38142, July 15, 1993).

### § 1910.1 Purpose and scope.

(a) Section 6(a) of the Williams-  
Steiger Occupational Safety and  
Health Act of 1970 (84 Stat. 1593) pro-  
vides that “without regard to chapter 5  
of title 5, United States Code, or to the  
other subsections of this section, the  
Secretary shall, as soon as practicable  
during the period beginning with the  
effective date of this Act and ending 2  
years after such date, by rule promul-  
gate as an occupational safety or  
health standard any national con-  
sensus standard, and any established  
Federal standard, unless he determines  
that the promulgation of such a stand-  
ard would not result in improved safety  
or health for specifically designated  
employees.” The legislative purpose of  
this provision is to establish, as rapidly  
as possible and without regard to the  
rule-making provisions of the Adminis-  
trative Procedure Act, standards with  
which industries are generally famil-  
iar, and on whose adoption interested  
and affected persons have already had  
an opportunity to express their views.  
Such standards are either (1) national  
consensus standards on whose adoption  
affected persons have reached substan-  
tial agreement, or (2) Federal stand-  
ards already established by Federal  
statutes or regulations.

(b) This part carries out the directive  
to the Secretary of Labor under section  
6(a) of the Act. It contains occupa-  
tional safety and health standards  
which have been found to be national  
consensus standards or established  
Federal standards.

### § 1910.2 Definitions.

As used in this part, unless the con-  
text clearly requires otherwise:

(a) *Act* means the Williams-Steiger  
Occupational Safety and Health Act of  
1970 (84 Stat. 1590).

(b) *Assistant Secretary of Labor* means  
the Assistant Secretary of Labor for  
Occupational Safety and Health;

(c) *Employer* means a person engaged  
in a business affecting commerce who  
has employees, but does not include

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the United States or any State or political subdivision of a State;

(d) *Employee* means an employee of an employer who is employed in a business of his employer which affects commerce;

(e) *Commerce* means trade, traffic, commerce, transportation, or communication among the several States, or between a State and any place outside thereof, or within the District of Columbia, or a possession of the United States (other than the Trust Territory of the Pacific Islands), or between points in the same State but through a point outside thereof;

(f) *Standard* means a standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment;

(g) *National consensus standard* means any standard or modification thereof which (1) has been adopted and promulgated by a nationally recognized standards-producing organization under procedures whereby it can be determined by the Secretary of Labor or by the Assistant Secretary of Labor that persons interested and affected by the scope or provisions of the standard have reached substantial agreement on its adoption, (2) was formulated in a manner which afforded an opportunity for diverse views to be considered, and (3) has been designated as such a standard by the Secretary or the Assistant Secretary, after consultation with other appropriate Federal agencies; and

(h) *Established Federal standard* means any operative standard established by any agency of the United States and in effect on April 28, 1971, or contained in any Act of Congress in force on the date of enactment of the Williams-Steiger Occupational Safety and Health Act.

#### **§ 1910.3 Petitions for the issuance, amendment, or repeal of a standard.**

(a) Any interested person may petition in writing the Assistant Secretary of Labor to promulgate, modify, or revoke a standard. The petition should set forth the terms or the substance of

the rule desired, the effects thereof if promulgated, and the reasons therefor.

(b)(1) The relevant legislative history of the Act indicates congressional recognition of the American National Standards Institute and the National Fire Protection Association as the major sources of national consensus standards. National consensus standards adopted on May 29, 1971, pursuant to section 6(a) of the Act are from those two sources. However, any organization which deems itself a producer of national consensus standards, within the meaning of section 3(9) of the Act, is invited to submit in writing to the Assistant Secretary of Labor at any time prior to February 1, 1973, all relevant information which may enable the Assistant Secretary to determine whether any of its standards satisfy the requirements of the definition of “national consensus standard” in section 3(9) of the Act.

(2) Within a reasonable time after the receipt of a submission pursuant to paragraph (b)(1) of this section, the Assistant Secretary of Labor shall publish or cause to be published in the FEDERAL REGISTER a notice of such submission, and shall afford interested persons a reasonable opportunity to present written data, views, or arguments with regard to the question whether any standards of the organization making the submission are national consensus standards.

#### **§ 1910.4 Amendments to this part.**

(a) The Assistant Secretary of Labor shall have all of the authority of the Secretary of Labor under sections 3(9) and 6(a) of the Act.

(b) The Assistant Secretary of Labor may at any time before April 28, 1973, on his own motion or upon the written petition of any person, by rule promulgate as a standard any national consensus standard and any established Federal standard, pursuant to and in accordance with section 6(a) of the Act, and, in addition, may modify or revoke any standard in this part 1910. In the event of conflict among any such standards, the Assistant Secretary of Labor shall take the action necessary to eliminate the conflict, including the revocation or modification of a standard in this part, so as to assure the